

## Merit Systems Protection Board

## § 1201.124

Special Counsel corrective and disciplinary action complaints, and agency actions against administrative law judges, decided under this subpart. Subpart H of this part also applies to requests for consequential damages in connection with Special Counsel corrective action complaints decided under this subpart.

(c) The provisions of this subpart do not apply to appeals alleging non-compliance with the provisions of chapter 43 of title 38 of the United States Code relating to the employment or reemployment rights or benefits to which a person is entitled after service in the uniformed services, in which the Special Counsel appears as the designated representative of the appellant. Such appeals are governed by part 1208 of this title.

[62 FR 48451, Sept. 16, 1997, as amended at 62 FR 66815, Dec. 22, 1997; 65 FR 5409, Feb. 4, 2000]

### SPECIAL COUNSEL DISCIPLINARY ACTIONS

#### § 1201.122 Filing complaint; serving documents on parties.

(a) *Place of filing.* A Special Counsel complaint seeking disciplinary action under 5 U.S.C. 1215(a)(1) (including a complaint alleging a violation of the Hatch Political Activities Act) must be filed with the Clerk of the Board.

(b) *Initial filing and service.* The Special Counsel must file a copy of the complaint, together with numbered and tabbed exhibits or attachments, if any, and a certificate of service listing each party or the party's representative. The certificate of service must show the last known address, telephone number, and facsimile number of each party or representative. The Special Counsel must serve a copy of the complaint on each party and the party's representative, as shown on the certificate of service.

(c) *Subsequent filings and service.* Each party must serve on every other party or the party's representative one copy of each of its pleadings, as defined by § 1201.4(b). A certificate of service describing how and when service was made must accompany each pleading. Each party is responsible for notifying the Board and the other parties in writing of any change in name, ad-

dress, telephone number, or facsimile number of the party or the party's representative.

[62 FR 48451, Sept. 16, 1997, as amended at 68 FR 59863, Oct. 20, 2003; 69 FR 57630, Sept. 27, 2004; 77 FR 62370, Oct. 12, 2012]

#### § 1201.123 Contents of complaint.

(a) If the Special Counsel determines that the Board should take any of the actions listed below, he or she must file a written complaint in accordance with § 1201.122 of this part, stating with particularity any alleged violations of law or regulation, along with the supporting facts.

(1) Action to discipline an employee alleged to have committed a prohibited personnel practice, 5 U.S.C. 1215(a)(1)(A);

(2) Action to discipline an employee alleged to have violated any law, rule, or regulation, or to have engaged in prohibited conduct, within the jurisdiction of the Special Counsel under 5 U.S.C. 1216 (including an alleged violation by a Federal or District of Columbia government employee involving political activity prohibited under 5 U.S.C. 7324), 5 U.S.C. 1215(a)(1)(B), 1216(a), and 1216(c);

(3) Action to discipline a State or local government employee for an alleged violation involving prohibited political activity, 5 U.S.C. 1505; or

(4) Action to discipline an employee for an alleged knowing and willful refusal or failure to comply with an order of the Board, 5 U.S.C. 1215(a)(1)(C).

(b) The administrative law judge to whom the complaint is assigned may order the Special Counsel and the responding party to file briefs, memoranda, or both in any disciplinary action complaint the Special Counsel brings before the Board.

#### § 1201.124 Rights; answer to complaint.

(a) *Responsibilities of Clerk of the Board.* The Clerk of the Board shall furnish a copy of the applicable Board regulations to each party that is not a Federal, State, or local government agency and shall inform such a party of the party's rights under paragraph (b) of this section and the requirements regarding the timeliness and content of an answer to the Special Counsel's